

(1998) 01 CAL CK 0014
In the Calcutta High Court

Case No : Constitutional Writ Jurisdiction Original Side W.P. No. 1906 of 1997

Saswati Choudhary

APPELLANT

Vs

The University of Calcutta

RESPONDENT

Date of Decision : 21-01-1998

Acts Referred:

Calcutta University Act, 1979 — Section 22, 56(2)
Constitution of India, 1950 — Article 226

Citation : (1998) 2 CALLT 244 : (1998) 1 ILR (Cal) 106

Hon'ble Judges : Basudeva Panigrahi, J

Bench : Single Bench

Judgement

The Court: This is an application under Article 226 of the Constitution of India seeking a writ of Mandamus commanding the University Authority to issue Migration Student Registration Certificate in favour of the petitioner without any further delay and allow her to appear in the forthcoming B.A. Part-I Examination conducted by the University as a regular candidate from Dinabandhu Andrews College Centre.

2. The writ petitioners has stated, inter alia. In the application that she passed her All India Secondary School Examination in the year 1904 as "Patrachar Vidyalaya" candidate under the Central Board of Secondary Education. Immediately after passing out in the said examination, she prosecuted her studies in All India Senior School Certificate Examination in the year 1996 from a "Patrachar Vidyalaya" under the same Central Board of Secondary Education. After she came out successfully in the said examination, she submitted an application for admission in B.A. Examination (History) as "Patrachar Course candidate". It is further alleged that she had submitted her application for registration but since the University Authorities did not communicate its view as regards her registration and as the examination is fast approaching, she did not find any other way than to file this present writ application for the appropriate direction. It has been prayed that the refusal by the University Authority to register her name is highly illegal, malafide and discriminatory inasmuch as there

was no Regulation, Notification. Statute or Ordinance duly published and notified by the University Authorities denying the admission and registration of students passing out from a "Patrachar Vidyalaya".

3. In support of her claim, she annexed the identity Card issued by Dinabandhu Andrews College, Garla, vide annexure "A" and also the Marksheet obtained in the Higher Secondary Examination.

4. The Calcutta University has filed affidavit-in-opposition, inter-alia, denying the averments of writ petition. It has been stated that the matter relating to admission of students passing from "Patrachar Vidyalaya" to Higher Course of Studies under the University, came up for consideration before the Syndicate in its meeting held on 30th November 1993 and the Syndicate had, however, been pleased for not recognising such Course of Studies. Therefore, in such situation, the University Authority could not direct registration of the petitioner's name. It has been further reiterated that there was previous litigation relating to registration of candidates passed from "Patrachar Vidyalaya" for admission into higher course of studies and the said case was decided by Mr. Gitesh Ranjan Bhattacharjee, J. by directing University Authorities to widely publish the same permanently in atleast four leading State level Newspapers of English, Bengali and Hindi Languages without further delay indicating that the students coming out from "Patrachar Course" shall not be allowed to appear in the higher course of studies in the University Examinations. The said Judgment has been reported in AIR 1996 Cal 236. pursuant to the said direction, the University Authorities had widely published its decision in "Ananda Bazar Patrika", "Ganasakti", "Sanmarg" and "Statesman", a copy of which has been enclosed as annexure "A". The University issued Circulars on 25th April 1996 to all the Colleges and institutions affiliated to the Calcutta University directing them that the students coming out from the "Partachar Vidyalaya" shall not be permitted to sit in any University Examination for the B.A. Course. Therefore, the writ petitioner even after having come to know about decision of the Syndicate if Joined in the B.A. Part-I class it may be at her peril for which the University cannot be blamed. The University further does not recognise open system of education and as such, the petitioner should not be permitted to contend that she should be placed in the same position with the students passing out examination from the Formal System of Education.

5. Mr. Bikash Ranjan Bhattacharyya, learned Senior Advocate appearing on behalf of the petitioner, has seriously contended that the University cannot be allowed to meet-out discriminatory treatment in permitting the candidates, those who have prosecuted their studies from regular Colleges and by not permitting the candidates, who prosecuted their studies from "Patrachar-Vidyalaya". The course of study in both the cases being similar, the University Authority has no earthly reason to discriminate them by allowing one group of students to appear in the examination while denying the other group of students those who have completed their studies in the "Patrachar Vidyalaya". In the particulate case, the

College Authorities since admitted the writ petitioner into B.A. Course and the College Authority being the agent of the University, the later could not have subsequently turned round and say that the petitioner is ineligible to appear in B.A. Examination. It has been further stated that the College should be treated as the agent of the University who shall be regarded as its Principal. Therefore, what all action taken by the agent shall bind the principal. In the instant case, the petitioner was allowed to complete her two years course of studies and at the end she should not be denied of her right from appearing in the B.A. Examination. In support of his contention, he has relied upon a decision reported in Narendra Bahadur Singh and Others Vs. Gorakhpur University and Another, in the case of Narendra Bahadur Singh v. Gorakhpur University. On a careful reading of the Judgment, it appears that the facts of the above case are entirely distinguishable from the present case. That was with regard to an admission of the regular students, when the College Authorities admitted beyond its sanctioned strength, the apex court held that it was open to the University to immediately ask the students those who had joined in excess of the sanctioned strength not to prosecute further studies. After allowing them to complete the course, latter on, the University Authorities cannot be permitted to deny their right in appearing the University Examination, but such analogy cannot be stretched to the present case.

6. I have carefully gone through the other decisions cited by the petitioner, but I found of those decisions has any-application with the present facts. Mr. Bhattacharyya has relied upon the Judgment of G.R. Bhattacharjee. J. In the case of Kalidas Gangopadhaya v. State of West Bengal reported in 1996(2) CLJ. The points for consideration in the aforesaid decision was quite-different. It was with regard to equivalence of Post Graduate Degree obtained from the Himachal Pradesh University through Correspondence Course. It is no doubt true that the single Bench of this court has taken a view in the aforesaid Judgment that such Degree obtained from the correspondence course from other Univesity is equivalent with the degree obtained from any other degree within the State.

7. Mr. Biswas, learned Advocate appearing on behalf of Calcutta University has invited my attention by citing a xerox copy of the judgment passed by a Division Bench of this court in F.M.A.T. No. 2579 of 1996. where the value of equivalence of a degree obtained from a correspondence course was seriously considered and this court in consideration of the Supreme Court case of Rajendra Prasad Mathur v. Karnataka University reported in 1986 (suppl) SCC 740 held that the question of equivalence should be left to the decision of the University Authorities. The University is the best fitted authority to decide whether any examination held by an University outside the State is equivalent to an examination held by an University within the State having regard to the courses, the syllabus, the quality of teaching or instruction and the standard of examination. It is an academic question in which the court should not disturb the decision taken by the University. In the aforementioned case, the Division Bench has taken this view:

"It is for each University to decide the question of equivalence and it would not be right for the court to sit in Judgment over the decision of the University because it is not a matter on which the court possesses any expertise. The University is best fitted to decide whether any examination held by a University outside the State is equivalent to an examination held within the State having regards to the courses, the syllabus, the quality of teaching or instruction and the standard of examination. It is an academic question in which the court should not disturb the decision taken by the University".

8. Mr. Biswas appearing with Mr. Dutta has, further, submitted that in this case since in view of the above Division Bench case, the question of equivalence should be left to the University-authorities, and, therefore the petitioner cannot claim the certificate which she obtained from the "Patrachar Vidyalaya" can be regarded as the same as certificate obtained through "Ucchhya-Madhyamik Examination". It has been further highlighted that the University in terms of the judgment reported in Pratiksha Bhatia and others Vs. University of Calcutta and others, in the case of Pratiksha Bhatta, the authority had published in four local newspapers expressing its intention that the certificates obtained from the "Patrachar Vidyalaya" cannot be recognised. Even after having come to know about this decision of the University, if the petitioner still prosecuted her studies in B.A. Examination in Dinabandhu Andrews College, it was at her risk for which the University cannot be responsible.

9. The learned Advocate appearing for the College has invited my attention that the petitioner did not disclose that she passed through the "Patrachar Vidyalaya" in her admission application. Had such fact been disclosed, the College Authority ought not have admitted her into B.A. (History Course). Therefore, since the petitioner has materially suppressed the said fact in her application, the college authorities cannot be blamed to have given her admission. The xerox copy of the application purported to have been submitted by the petitioner has been filed by the learned Advocate for the college. Nowhere it has been indicated that she has obtained her certificate through "Patrachar Vidyalaya".

10. Mr. Biswas has relied upon another decision of this court reported in 1992(1) CLJ 412 in the case of Anindya Kumar v. Calcutta University. It has been held as follows:-

"(A) Section 22 of the Calcutta University Act, 1979 has vested the Syndicate of the University with certain powers and duties to prescribe and collect fees or charge for the registration of students and their admission to courses of studies organised by the University, for holding examination, for the grant of degrees, diplomas and certificates, and for other like purposes.

Section 56(2) (b) of the said Act--provides that the Syndicate may delegate any of its powers or duties to a committee constituted from amongst its own members. It appears that the power of dealing with the matters relating to equivalence of examination and eligibility of the students for admission to

different courses of studies have been delegated to equivalence committee. The equivalence committee resolved that Senior School Certificate (Open School) Examinations cannot be the Central Board of Secondary Education, New Delhi is not to be recognised as equivalent to 12 years Higher Secondary Examination of the West Bengal Council of Higher Secondary Examination, New Delhi is not to be recognised as equivalent to 12 years Higher Secondary Education for the purpose of admission to the First Year Degree Class in a college under the Calcutta University.

(B) Regulation 1 of the Regulation for New Degree Course postulates that a candidate may be admitted to First Year Degree Course if he has prosecuted a regular course of study for not less than two academics years in a College or College affiliated to the University in the subjects which the candidates takes up after passing the Higher Secondary Examination (10+2 course) conducted by the Council for Higher Secondary Education, West Bengal, or an equivalent examination recognised as such examination".

11. From the totality of the facts and circumstances into consideration and by taking the xerox copy of the application filed by the petitioner in the College, it is found that she did not disclose that she obtained the certificate in Higher Secondary from "Patrachar Vidyajaya". Therefore, the Calcutta University Authority cannot be blamed by disallowing her to prosecute her studies in Dinabandhu Andrews College. Prior to her admission. It was already circulated in the local newspaper that such certificate obtained from "Patrachar Vidyalaya" cannot be treated as an equivalent with the certificate of Uchchhya Madhyamik. In that view of the matter, if the petitioner still prosecuted her studies in Dinabandhu Andrews College, it was at her risk for which neither the College Authority, nor the University should shoulder the blame. I am conscious that she has completed almost two years in the College but in the peculiar situation, she could not be helped since in so far as the equivalence of certificate is concerned, it is on the University authority to take decision and the court cannot sit in Judgment of the University. Thus, considering the case of the petitioner from any angle, I did not find that the case has any merit and, accordingly, it is dismissed, but in the peculiar circumstances without costs.

All parties are to act on a xerox signed copy of this Judgment on the usual undertaking.

12. Petition dismissed